

KINNARD MEDIATION CENTER
UNITED STATES COURT OF APPEALS
ELEVENTH JUDICIAL CIRCUIT

CONFIDENTIAL MEDIATION STATEMENT

Eleventh Circuit Rule 33-1(d) requires counsel to send the mediator a Confidential Mediation Statement assessing the appeal before the mediation. The statement should be in compliance with the factors outlined and questions raised below, prepared in letter format, and sent by fax or mail so that the mediator receives it at least two days prior to the initial mediation date. The statement will not be shared with the other side and will not become part of the court file.

1. Briefly recite the circumstances that gave rise to the litigation. If the appeal involves procedural issues, provide the facts of the underlying dispute as well, since the purpose of the mediation process is to resolve disputes in their entirety.
2. Describe any matters pending in the lower court or in any related litigation.
3. Are there any recent developments that may impact on the resolution of the appeal?
4. Provide a history of any efforts to settle the appeal, including any prior offers or demands.
5. Give a candid assessment of the parties' respective strengths and weaknesses.
6. Identify all individuals and counsel you believe should be directly involved in the settlement discussions.
7. Describe any sensitive issues that may not be apparent from the court records but will influence the settlement negotiations.
8. State the nature of the relationship between counsel and between the parties.
9. What are your priority of interests?
10. Do you have suggested approaches or creative solutions for the mediator to take in an attempt at settlement ("problem" to be settled, sequence of issues)?
11. What are the necessary terms in any settlement?
12. Are there limitations in your authority to make commitments on behalf of your client?
13. Are there any concerns about confidentiality?
14. Is there any additional information your client or the other party needs to settle this appeal? Should it be provided before the mediation?

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